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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,122	07/13/2001	Mary C. Frederickson	0114	1706

7590 03/06/2003

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EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,122

Applicant(s)

FREDERICKSON

Examiner

KURT ROWAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 11, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-16 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Objections

1. Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 10 recites that each link includes a barb which already recited in claim 1 since the limitations of claims 2-3 were included into claim 1.

Claim Rejections - 35 U.S.C. § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4-5, 7, 9-13, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien in view of Clayton.

The patent to O'Brien shows an apparatus for freeing a fishing lure and hook having a sleeve 118 with a slit 22, a plurality of chain elements 21a, 21b, 21c secured to the sleeve; and a line 15 secured to the sleeve for lowering the sleeve on the fishing line 14. Each chain element contains a

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plurality of links. The patent to Clayton shows a fishing lure retriever. Clayton shows a plurality of barbs 26 on the chain links 23, 25. In reference to claim 1 and 10, 11, it would have been obvious to provide O'Brien with barbs as shown by Clayton to engage the fishing lure. O'Brien shows a plurality of links 21a, 21b, 21c as shown in Fig. 2. Clayton does not show a barb on every link, but it would have been obvious to provide a barb on every link for multiplied effect. See *In re Harza*, 124 USPQ 378. In reference to claims 4, 5, O'Brien does not disclose a reel but shows rod 13 with the line passing through line eyelets in fig. 1. At any rate, it would have been obvious to employ a reel for the purpose of storing the line when not in use. In reference to claim 9, O'Brien shows three chain elements, but it would have been obvious to use five for multiplied effect. See O'Brien, lines 11-14 in column 4.

4. Claims 6 and 8, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien as applied to claim 1 above, and further in view of Shirk.

The patents to O'Brien and Shirk show fishing lure retrievers. O'Brien has been discussed above and shows the slit in the body or sleeve extending generally parallel to the longitudinal axis. Shirk shows the slit 2 in the sleeve 1 extending diagonally with respect to the longitudinal axis. In reference to claim 6, it would have been obvious to provide O'Brien with a diagonal slit as shown by Shirk since merely one equivalent slit is being replaced with another and the function is the same and no stated problem was solved. In reference to claim 8, Shirk shows the line 4 secured to the sleeve diametrically opposed to the slit in Figs. 1-2.

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Response to Arguments

5. Applicant's arguments filed December 11, 2002 have been fully considered but they are not persuasive. Applicant argues that the unbarbed hooks of Clayton are not barbs. However, the hooks 26 of Clayton can be considered as barbs since they can hook another element such as part of a fishing lure. Also, see the rejection of claim 1, above. Applicant has not structurally differentiated between the hooks 26 of Clayton and the barbs of the instant invention.

Furthermore the barbs as shown in the drawings are almost impossible to see so it is not clear just what applicant means by a barb.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KURT ROWAN whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink that reads "Kurt Rowan". The signature is written in a cursive, slightly slanted style.

KURT ROWAN

PRIMARY EXAMINER

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March 4, 2003